

COASTAL CONSERVANCY

Staff Recommendation
September 25, 2008

ROMIC SETTLEMENT FUNDS FOR INVASIVE *SPARTINA* REMOVAL

File No. 99-054
Project Manager: Maxene Spellman

RECOMMENDED ACTION: Authorization to accept from Romic Environmental Technologies Corporation \$60,500 (sixty thousand five hundred dollars) in settlement funds from a claim for resource damage in South San Francisco Bay, and disbursement of these funds to augment an existing grant to the California Wildlife Foundation for invasive *Spartina* treatment in South San Francisco Bay under the Conservancy's regionally coordinated Invasive *Spartina* Control Program.

LOCATION: The baylands and lower creek channels of San Mateo and Santa Clara Counties that bound South San Francisco Bay.

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

- Exhibit 1: [April 24, 2008 Staff Recommendation](#)
 - Exhibit 2: [June 16, 2005 Staff Recommendation](#)
 - Exhibit 3: [September 25, 2003 Staff Recommendation](#)
 - Exhibit 4: [Map of 2008-2010 Treatment Sites](#)
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Chapter 4.5 of Division 21 of the Public Resources Code (sections 31160-31165):

“The State Coastal Conservancy hereby authorizes the following:

1. Acceptance from Romic Environmental Technologies Corporation (Romic) of \$60,500 (sixty thousand five hundred dollars) in settlement funds related to a claim by the California Department of Fish & Game for resource damage caused by a chemical release in south San Francisco Bay.
2. Disbursement of up to \$60,500 (sixty thousand five hundred dollars) of the Romic settlement funds to supplement the existing grant to the California Wildlife Foundation for invasive *Spartina* treatment and eradication for 2009 and 2010 through implementation of portions of

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the updated three-year site-specific plans for South San Francisco Bay, accompanying the April 24, 2008 Conservancy staff recommendation (Exhibit 1 to the accompanying staff recommendation).

3. This authorization is subject to the same conditions imposed by paragraphs 2(a) through 2(c) of the Conservancy's April 24, 2008 authorizing resolution."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. Disbursement of additional funds for ISP Control Program treatment and eradication in South San Francisco Bay remains consistent with Public Resources Code Sections 31160-31165 and with the resolutions, findings and discussion accompanying the Conservancy authorization of April 24, 2008 (Exhibit 1 to the accompanying staff recommendation).
2. The proposed authorization remains consistent with the Project Selection Criteria and Guidelines last updated by the Conservancy on September 20, 2007.
3. California Wildlife Foundation is a private nonprofit organizations existing under Section 501(c)(3) of the United States Internal Revenue Code, whose purposes are consistent with Division 21 of the California Public Resources Code."

PROJECT SUMMARY:

As detailed at length in the April 24, 2008 Conservancy staff recommendation, for the past nine years the Conservancy has managed the regionally coordinated effort to bring the infestation of invasive *Spartina* under control and is now anticipating near-total eradication by 2011/2012. Treatment and control of invasive *Spartina* and its hybrids within the San Francisco Bay Estuary are critical to the long-term health of the Estuary and to the species which inhabit and rely upon the salt marshes and tidal flats along its perimeter. Invasive *Spartina* spreads at a greater than exponential rate, and every tidal marsh restoration project implemented within the south and central San Francisco Bay Estuary in the past 15 years has been invaded by non-native invasive *Spartina*. Invasive *Spartina* also threatens to spread out the Golden Gate and north and south along the California coastline. The most recent action by the Conservancy authorized funding for treatment for 2008 (based on three year site specific plans for treatment though 2010) and management through spring of 2010 as detailed in the April 24, 2008 staff recommendation (see Exhibit 1).

This authorization would allow the Conservancy to accept from Romic \$60,500 of settlement funds negotiated to resolve claims for resource damages resulting from a chemical release into South San Francisco Bay, and to disburse these funds through an existing grant to the California Wildlife Foundation (CWF) for invasive *Spartina* treatment activities in South San Francisco Bay in 2009 and 2010 under the Conservancy's regionally coordinated San Francisco Estuary Invasive *Spartina* Project (ISP) Control Program. The site specific plans for this treatment were provided to and considered by the Conservancy at the time of its April 24, 2008 authorization for the grant for the first year (2008) of treatment under the three year plan of treatment (Exhibit 1). Treatment strategies will vary to include aerial treatments, and land and water based treatments

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using boats, trucks, backpacks and amphibious vehicles.

Project History:

On May 7, 2008, the California Department of Fish and Game (CDFG) entered into a settlement with Romic resolving CDFG's claims for natural resource damages resulting from the chemical release from Romic's East Palo Alto facility on June 5, 2006. The chemical release adversely impacted clapper rails, vegetation, and other resources in Laumeister and Faber marshes and in the vicinity of the two marshes.

Prior to entering into the settlement agreement, staff of CDFG's Office of Spill Prevention and Response consulted with staff of the Conservancy and of the U. S. Fish and Wildlife Service (USFWS), and with the Conservancy's consultants who manage the ISP to determine if treatment and eradication work under the ISP Control Program in South San Francisco Bay might be an appropriate use for the settlement funds and offset the resource damage caused by the chemical release. Concluding that it would be appropriate, CDFG required under the terms of the settlement that Romic, among other things, pay the sum of \$60,500 to CWF or the Conservancy, to fund removal of non native invasive cordgrass from mudflats and tidal salt marshes in South San Francisco Bay. Romic has provided the total amount to the Conservancy with the understanding that upon authorization, these funds will supplement the existing grant to CWF for treatment and eradication work, consistent with the purposes of Romic's settlement agreement with CDFG. Upon Conservancy authorization, staff will amend the existing agreement with the CWF to add the sum of \$60,500 to conduct cordgrass removal through 2010 as part of the Conservancy's ISP Control Program.

Site Description:

Four updated site-specific plans covering the south Bay in San Mateo and Santa Clara counties, which were previously submitted to the Conservancy with the staff recommendation for its April 24, 2008 authorization (see Exhibit 1), provide detailed site descriptions, the history and status of the infestation, the proposed treatment methods and strategy, monitoring needs, and environmental compliance. The areas covered by these plans include Site 15: South Bay Marshes Complex, Santa Clara & San Mateo Counties, Site 16: Cooley Landing Salt Pond Restoration, San Mateo County, Site 08: Palo Alto Baylands, Santa Clara County, and Site 02: Bair & Greco Islands Complex, San Mateo County. Also see Exhibit 4, Map of Treatment Sites through 2010, for the location of the sites.

The Laumeister and Faber marshes, where the chemical release occurred, are included as a sub-area in Site 15: South Bay Marshes Complex, but only 3 small clones of invasive *Spartina* remain there. The settlement funding will be used to remove and monitor this small infestation and to treat and monitor more extensive infestations at nearby marshes. These infestations vary from scattered hard to reach clones to easier to access large patches. Together the sites consist of highly diverse habitats including large tracts of undisturbed salt marsh, marsh islands, current and former salt ponds, restoration marshes, creek channels and sloughs, slough edge marshes, creek deltas, fringing tidal marsh benches, historic tidal marsh plains, bay fill, brackish marsh, pans, open mudflats, and sand/shell beaches. The endangered California clapper rail and salt marsh harvest mouse reside at various locations in these marshes.

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PROJECT FINANCING:

Romic Settlement Funds to Coastal Conservancy	\$60,500
Total Project Cost	\$60,500

Romic and CDFG entered into a settlement resulting from a claim for environmental damage caused by a chemical release from the Romic facility on the shores of East Palo Alto. The Settlement Agreement required Romic to pay the Conservancy or the CWF \$60,500 for the purposes of removal of non-native cordgrass from mudflats and tidal salt marshes in South San Francisco Bay. The Romic settlement funds are being held in the Coastal Conservancy Trust Fund, San Francisco Bay Area Conservancy Program Account, and, subject to Conservancy authorization, may only be used for these purposes. Under the proposed authorization, this funding will be used for the intended purpose of treatment and eradication of non-native invasive *Spartina* in South San Francisco Bay.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

As described in previous staff recommendations (Exhibits 1, 2, and 3) and associated Conservancy resolutions, the ISP and implementation of the Control Program serve to carry out the objectives for the San Francisco Bay Area Conservancy Program mandated by Chapter 4.5 of the Conservancy's enabling legislation. Both the ISP and its Control Program will serve to protect and restore tidal marshes, which are natural habitats of regional importance (Public Resources Code Section 31162(b)). The additional 2 years of CWF treatment activities remain consistent with the requirements of Chapter 4.5, as fully detailed in the April 24, 2008 staff recommendation.

**1.1 CONSISTENCY WITH CONSERVANCY'S
2007 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S)**

The proposed grant to CWF, as supplemented by the proposed authorization, remains consistent with the Conservancy's 2007 Strategic Plan, as set forth in the April 24, 2008 staff recommendation (Exhibit 1).

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed authorization remains consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated September 20, 2007, as detailed in the April 24, 2008 staff recommendation (Exhibit 1).

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CONSISTENCY WITH SAN FRANCISCO BAY PLAN:

The ISP Control Program remains consistent with the San Francisco Bay Plan (See April 24, 2008 staff recommendation, Exhibit 1)

COMPLIANCE WITH CEQA:

The four three-year updated site-specific plans and impact and mitigation matrices for treatment activities through 2010 for the South San Francisco Bay sites, which are the subject of the proposed supplemental authorization, were previously considered by the Conservancy in connection with its April 24, 2008 authorization (See Exhibit 1). The proposed authorization supplements the existing CWF grant, but makes no change to the proposed treatment activities, other than extending them into 2009 and 2010, as previously contemplated and detailed in the site-specific plans. The proposed authorization for this continued treatment remains consistent with and does not require additional CEQA findings beyond the findings previously made by the Conservancy in connection with its April 24, 2008 authorization.